

**VIRGINIA BOARD OF NURSING
MINUTES
NOVEMBER 18, 2003**

TIME AND PLACE: The meeting of the Board of Nursing was called to order at 9:05 A.M. on November 18, 2003 in Conference Room 2, Department of Health Professions, 6603 West Broad Street, Richmond, Virginia.

PRESIDING: Janet B. Younger, R.N., P.N.P., Ph.D., President

BOARD MEMBERS
PRESENT: Linda Ault, R.N., M.S.N., Vice President
Louise D. Hartz, Citizen Member, Secretary
Marion Alderman, Citizen Member
Lynne M. Cooper, Citizen Member
Gregory J. Huber, R.N., M.S.N.
Carol E. King, L.P.N., M.S.
Louisa Lief, R.N., M.S.
Denise Oppenhagen, R.N., B.S.N.
Judith E. Piersall, R.N., B.S.N.
Julia C. Semple, L.P.N.
Brenda L. Spady, L.P.N.
JoAnn Tillett, R.N.

STAFF PRESENT: Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director
Jodi P. Power, R.N., J.D., Deputy Executive Director, Nurse Aide Registry Manager
Jessica Ressler, R.N., Nursing Education Consultant
Susan Bell Rosen, R.N., F.N.P., J.D., Deputy Executive Director, Discipline
Paula B. Saxby, R.N., Ph.D., Deputy Executive Director, Education
Ann S. Hardy, R.N., M.S.N., Discipline Case Manager
Amy Davis, Administrative Assistant

OTHERS PRESENT: Robert Nebiker, Director, Department of Health Professions
Elaine Yeatts, Regulatory Analyst, Department of Health Professions
Howard M. Casway, Senior Assistant Attorney General
Clay Garrett, Assistant Attorney General
Tammie Hall, Senior Adjudication Analyst
Gayle Miller, Senior Adjudication Analyst

ESTABLISHMENT OF
A QUORUM: With thirteen members of the Board present, a quorum was established.

CLOSED MEETING: Ms. Hartz moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(28) of the *Code of Virginia* at 9:07 A.M., for the purpose of deliberation to reach a decision regarding possible summary suspensions. Additionally, Ms. Hartz moved that Ms. Douglas, Ms. Power, Ms. Rosen, Ms. Hardy, Ms. Ressler, Dr. Saxby, Mr. Casway, Mr. Garrett, Ms. Davis, Ms. Hall

and Ms. Miller attend the closed meeting because their presence in the closed meeting is deemed necessary for the purpose of considering cases for possible summary suspensions.

The motion was seconded and carried unanimously.

RECONVENTION:

The Board reconvened in open session at 9:20 A.M.

Ms. Hartz moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

Ms. Lief moved that based on the evidence presented by Clay Garrett Assistant Attorney General, the Board of Nursing summarily suspend the license of Cynthia Edwards, Licensed Practical Nurse 0002-037368 pending a formal administrative hearing and to offer a consent order for indefinite suspension of her right to renew, in lieu of a formal hearing.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon endorsement of its findings, conclusions, and terms of consent by both Ms. Edwards and the Board.

Ms. Oppenhagen moved that based on the evidence presented by Clay Garrett Assistant Attorney General, the Board of Nursing summarily suspend the certificate of Emily Aikens, Certified Nurse Aide 1401-064983 pending a formal administrative hearing and to offer a consent order for indefinite suspension of her certificate, in lieu of a formal hearing.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon endorsement of its findings, conclusions, and terms of consent by both Ms. Aikens and the Board.

Mr. Garrett, Ms. Hall and Ms. Miller left the meeting.

ANNOUNCEMENTS:

*Next Committee of the Joint Boards of Nursing and Medicine meeting is scheduled for February 18, 2004

*Laverne Winston, Nurse Aide Registry receptionist last day was October 31, 2003.

*Alesia Harris, Board of Nursing new P-14 started October 27, 2003.

ORDERING OF AGENDA: The agenda was reviewed and ordered.

CONSENT AGENDA:

Ms. Hartz moved to accept the consent agenda which includes:

Minutes:

September, 22, 2003 – Ms. Lief

September 23, 2003 – Dr. Younger

September 24, 2003 – Dr. Younger

September 24, 2003 – Ms. Ault

October 21, 2003 – Telephone Conference Call

Reports:

Open Cases Report
Case Summary Report
Case Standard Report
License Count Report

Examinations:

NNAAP

NCLEX

Probation Completed

Successful Completion of Health Practitioners Intervention Program

The motion was seconded and carried unanimously.

REPORTS:

Health Practitioners Intervention Program:

Ms. Douglas reviewed the report as distributed.

Board of Health Professions:

Ms. Cooper reviewed the minutes from the last meeting as distributed.

Board Counsel:

Mr. Casway led a discussion on a Board of Medicine case decision and subsequent appeal. Discussion also included vacated orders and new advice from the Office of the Attorney General prohibiting the release of vacated orders. Mr. Casway presented an update regarding the appeal submitted by Lisa Tindle, the date is set for December 5, 2003, Richmond Circuit Court.

DIALOGUE WITH
MR. NEBIKER:

Mr. Nebiker reported on the following activities:

- Possible reduction in funding to the Nurse Aide Registry from Medicare and Medicaid sources to Department of Health Professions. Current renewal fees only cover one-third of costs of operation of Nurse Aide Registry. There has been several meetings between Department of Health Professions, Department of Medical Assistance Services and Department of Health. The issue has not been resolved yet, but a report will be presented to the Board in January 2004.
- Appointment of Nancy Roberts as Deputy Secretary of Health and Human Services. Ms. Roberts will visit on Wednesday, November 19, 2003.

Mr. Nebiker left the meeting.

RECESS:

The Board recessed at 10:20 A.M.

RECONVENTION:

The Board reconvened at 10:35 A.M.

REGULATIONS:

Ms. Yeatts reviewed information regarding the current status of regulations. Periodic review of nursing regulations – waiting for approval from Governor's office before public comment period will be set.
18 VAC 90-30 – Regulations Governing Nurse Practitioners – NOIRA published for 30 day comment period of December 15, 2003 through January 14, 2004.

REPORTS (continued):

NCSBN APRN Task Force:

Dr. Younger reported on the last meeting held two weeks ago. Virginia is only one of five states regulating nurse practitioners jointly with the Board of Medicine. Task force is still looking at issues related to APRN compact and certification issues.

On-line renewal:

Ms. Douglas reported the implementation date of January 2004. Renewals will allow for collection of emergency contact information and address changes.

Joint Commission on Health Care study of Nurse Practitioners and Prescriptive Authority:

Ms. Douglas reported that the Commission plans to recommend an in-depth study to the General Assembly. Virginia Council. of Nurse Practitioners are opposed to this recommendation.

Nursing Workforce data:

Dr. Saxby presented information regarding a comparison of admissions and graduates of nursing programs between FY 2002 and FY 2003. She also reported on the responses from schools of nursing collected during the annual report process. In addition, an invitation will be issued to stakeholders during the open form of the January 2004 board meeting to make suggestions to the Board regarding workforce data questions that will be used as part of a survey during the on-line renewal process.

POLICY FORUM:

Nurse Licensure Compact:

Ms. Douglas provided a power point presentation outlining the basic provisions of the compact.

RECESS:

The Board recessed at 11:50 A.M.

RECONVENTION:

The Board reconvened at 12:45 P.M.

OTHER MATTERS:

Request for accommodation for examination:

CLOSED SESSION:

Ms. Hartz moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(28) of the *Code of Virginia* at 1:05 P.M. in the matter of requests for accommodation for examination. Additionally, Ms. Hartz moved that Ms. Douglas, Dr. Saxby, Ms. Power, Ms. Rosen, Ms. Ressler, Ms. Hardy, Mr. Casway and Ms. Davis attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations.

The motion was seconded and carried unanimously.

RECONVENTION:

The Board reconvened in open session at 1:10 P.M.

Ms. Hartz moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such

public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

Edward Stern:

Ms. Lief moved to grant the request for accommodation to take the exam and grant three hours extended time over one day and a separate room to take the NCLEX-RN.

The motion was seconded and carried unanimously.

OIG Nurse Aide Registry survey:

Ms. Power informed the Board that we had received notification that the Department of Health and Human Services – Office of the Inspector General (OIG) was conducting an in-depth study of all nurse aide registries and Access database of licensure and disciplinary information was submitted to the OIG in September 2003. Web-based survey was completed and submitted November 3, 2003.

Election of Nominating Committee:

Ms. Alderman, Ms. Cooper, Ms. Tillett and Ms. Oppenhagen were nominated for the committee. Ms. Piersall moved that the nominations be closed. The motion was seconded and carried unanimously. Ms. Lief moved to accept the panel by acclamation. The motion was seconded and carried unanimously.

Nursing Practice Advisory Committee – Guidance Documents Review:

The Board accepted the report of the Committee and made revisions to the guidance documents as recommended. See attached list.

Proposed Committee Assignments:

Dr. Younger presented proposed assignments which were accepted by board members. These will be finalized and distributed to Board members.

EDUCATION
PROGRAMS:

The Board considered the recommendations of the Education Special Conference Committee from its meeting on November 18, 2003.

Ms. Oppenhagen moved that the Board of Nursing adopt the recommendations as corrected.

The motion was seconded and carried unanimously.

CLOSED SESSION:

Ms. Hartz moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(28) of the *Code of Virginia* at 2:50 P.M. for the purpose of consideration and discussion of consent orders. Additionally, Ms. Hartz moved that Ms. Douglas, Dr. Saxby, Ms. Power, Ms. Rosen, Ms. Ressler, Ms. Hardy, Mr. Casway and Ms. Davis attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations.

The motion was seconded and carried unanimously.

RECONVENTION:

The Board reconvened in open session at 2:55 P.M.

Ms. Hartz moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

CASE ADJUDICATION: **Consent Orders:**

James H. Alger, C.N.A. 1401-021102

Ms. King moved to accept the Consent Order for the surrender and revocation of Mr. Alger's nurse aide certificate with a finding of abuse.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Dana Lee Washington, C.N.A. 1401-081441

Ms. Hartz moved to accept the Consent Order for the surrender and revocation of Ms. Washington's nurse aide certificate with a finding of abuse.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Karen Sic-Cua, R.N. 0001-161018

Ms. Alderman moved to accept the Consent Order to accept the voluntary surrender and indefinite suspension of Ms. Sic-Cua's registered nurse license.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Karen P. Easter, C.N.A. 1401-074127

Ms. Ault moved to accept the Consent Order for indefinite suspension of Ms. Easter's nurse aide certificate.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Linda Devlin, R.N. 0001-137777

Ms. Tillett moved to accept the Consent Order for indefinite suspension of Ms. Devlin's registered nurse license.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Suzan Creasy, L.P.N. 0002-044389

Ms. Spady moved to accept the Consent Order for indefinite suspension of Ms. Creasy's licensed practical nurse license.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

ADJOURNMENT:

The meeting was adjourned at 2:55 P.M.

Louise Hartz, Citizen Member
Secretary

BOARD OF NURSING

Copies of the following documents may be viewed during regular work days from 8:15 a.m. until 5 p.m. at the offices of the Department of Health Professions, 6603 W. Broad Street, 5th Floor, Richmond, VA 23230. Copies may also be downloaded from the board's webpage at www.dhp.state.va.us or the Regulatory Townhall at www.townhall.state.va.us or requested by email at nursebd@dhp.state.va.us. Questions regarding interpretation or implementation of these documents or requests for copies may be directed to Jay Douglas, R.N., Executive Director of the board at the address above or by telephone at (804) 662-9909. Copies are free of charge.

Guidance Documents:

- 90-1, Policy statement on Registered Nurses or Licensed Practical Nurses as first assistants in surgery, adopted 1976 and 1994, revised by Board motion, November 18, 2003
- 90-2, Guidelines for agency to use regarding transmittal of third-party orders, accepted by the Boards of Nursing and Medicine, December 1982
- 90-4, Opinion on how licensure as a nurse relates to service on a volunteer rescue squad, revised by Board motion, November 18, 2003
- 90-5, Board opinion of the administration of neuromuscular blocking agents by nurses, adopted November 1990, revised by Board motion, November 18, 2003
- 90-6, Guidance statement by board regarding peripherally inserted central catheters, adopted January 27, 1993
- 90-8, Board opinion on delegation of collection of specimens for gonorrhea and chlamydia, adopted January 1993, revised November 18, 2003
- 90-10, Board guidelines for processing applications for licensure by examination, endorsement and reinstatement, accepted 1985, revised by Board motion 1993 and September 24, 2003
- 90-13, Authority granted to Special Conference Committees to approve or deny applicants, adopted on March 26, 1995
- 90-14, Disposal of narcotics in the home following death of a patient, internal memo of November 25, 1996
- 90-15, Insertion of Prostaglandin E2 Gel by Registered Nurses, revised by Board motion, November 18, 2003
- 90-16, Evaluation form for adult immunization protocols, developed by staff, August 1996
- 90-17, Opinion of cutting of corns and warts with a scalpel by Licensed RN/LPN, adopted December 16, 1996, revised November 18, 2003
- 90-18, Opinion regarding prescriptive authority in Virginia, prepared by Elizabeth Russell, revised April 1997 and September 2000.
- 90-19, Board interpretative statement on bolusing epidural anesthesia by Registered Nurses, adopted September 23, 1997, amended September 22, 1998, revised by Board motion, November 18, 2003
- 90-21, Preparation of medications, letter from Executive Director, Corinne Dorsey, October 2, 1990
- 90-22, Execution of a Do Not Resuscitate Order, letter from Executive Director, Nancy Durrett, February 19, 1998
- 90-23, Decision-making Model for Determining RN/LPN Scope of Practice, adopted by the Board September 24, 1996
- 90-25, Transcribing a physician order to a prescription, letter from Executive Director, Nancy Durrett, May 27, 1998
- 90-26, Board opinion on reinstatement applications for individuals with revoked certificates based on a finding of abuse, neglect or misappropriation of resident property, adopted July 23, 1996, revised by Board motion, November 18, 2003
- 90-27, Board opinion on reinstatement requests by individuals with lapsed certificates who have findings of abuse, neglect or misappropriation of resident property, adopted May 20, 1998, revised by Board motion, November 18, 2003
- 90-29, Definition of the term "administer" for patient in private residence and for students on a school field trip, adopted by the Board of Pharmacy on June 11, 1998, with concurrence of the Board of Nursing on July 21, 1998
- 90-30, Ability of registered nurses to take orders from physician assistants, letter from Executive Director, Nancy K. Durrett, September 3, 1998
- 90-31, Drug orders conveyed by pharmacists, letter from Executive Director, Nancy K. Durrett, September 8, 1998
- 90-32, Board opinion on adverse findings of neglect by certified nurse aides, adopted September 23, 1998, revised by Board motion, November 18, 2003
- 90-33, Board motion on applicants who are enrolled in the Health Practitioner Intervention Program, adopted July 20, 1999
- 90-34, Board motion on review and challenge of NCLEX, adopted July 20, 1999
- 90-35, Board motion authorizing staff to offer pre-hearing consent orders to certified nurse aides for patient abandonment, adopted September 28, 1999
- 90-36, Guidelines for the training of employees of school boards in the administration of insulin and glucagon, adopted August 1999

- 90-37, Board motion on requesting strategies for improvement for nursing education programs having less than 80% passing rate on the licensure examination for at least two years, adopted March 24, 1998.
- 90-38, Board motion on disposition of cases against nurses practicing with expired licenses, adopted May 11, 1999, revised by Board motion, November 18, 2003
- 90-39, Board motion authorizing staff to offer pre-hearing Consent Orders in cases of noncompliance or dismissal in Health Practitioners' Intervention Program cases, adopted September 26, 2000
- 90-40, Board opinion that the surveillance activities required by the OHSA Respiratory Standards are within the scope of practice of the registered nurse, adopted November 15, 2000
- 90-41, Board motion adopting article on patient abandonment by Dr. Shelley Conroy in the Spring 2001 Nursing Notes, adopted March 20, 2001
- 90-42. Board opinion on the delegation of circulating duties in the operating room to unlicensed persons, adopted July 17, 2001
- 90-43. Board opinion on attachment of scalp leads for internal fetal monitoring adopted October 22, 1983, revised by Board motion on November 18, 2003
- 90-44. Board opinion on reinstatement authority to a Special Conference Committee, adopted November 1, 1992
- 90-46. Board opinion on administration of over-the counter drugs by certified nurse aides, adopted March 19, 2002
- 90-47. Board motion authorizing staff to offer pre-hearing consent orders for reprimand in cases involving a one-time failure to provide an acceptable standard of care adopted May 21, 2002
- 90-48. Board motion authorizing staff to offer pre-hearing consent orders in additional scenarios, adopted September 24, 2002
- 90-49. Board motion authorizing staff to modify probation orders, adopted September 24, 2002
- 90-50. Board motion authorizing staff to issue order following successful completion of the Health Practitioners Intervention Program, adopted September 24, 2002
- 90-51. Board motion on types of cases that may be considered for possible confidential consent agreements, adopted May 14, 2003
- 90-52. Board opinion on delegation of the removal of venous and arterial sheaths by registered nurses to unlicensed personnel, adopted May 1, 2002